

If Democrats Controlled the House...

A Weekly Taste of Their Legislative Agenda

May 25, 2012



What sort of legislation might Democrats enact if they control the House? There is little need to speculate—just look at what they are introducing this Congress while in the minority. Below is another example of a bill the Democrats might try to move if given the opportunity.

Proposal: H.Con.Res. 68, “Expressing the sense of Congress that the President should ensure that the United States does not default on its debt by making every effort to negotiate passage of an increase in the statutory debt ceiling or, all such efforts failing, should use his authority under section 4 of the 14th Amendment to the United States Constitution to pay all debts of the United States as they come due.” (Emphasis added)

Sponsor: Rep. Jerrold Nadler (D-NY)

Summary: This resolution would express the sense of Congress that the President should take all actions necessary to pay the debts of the United States, and expresses the view that the President has the authority under the 14th Amendment to do so without Congressional approval.

Problems with the Bill: Paying the nation’s debts is of course an important goal. However this particular resolution attempts a detrimental and unconstitutional method of doing so. This resolution would express the sense of the House and Senate that the President has the constitutional authority to borrow money beyond that allowed by law and without Congressional approval. The legislation cites Article 1, Section 3, Clause 4 for this authority (which is unrelated and merely appoints the Vice President to be the President of the Senate) along with the 14th Amendment which states that the validity of the public debt shall not be questioned. However, even this section contains the phrase ‘authorized by law,’ acknowledging that there is no subversion of the legislative process authorized by the clause. Neither of these clauses wrest the power of the purse away from the Congress. No matter the substance of the issue at hand, the power of the purse authorized to the Congress by the Constitution is sacrosanct, and is not the President’s to take away at whim.

Reminder: RSC staffers and interns are encouraged to send other examples of questionable legislation to Rick.Eberstadt@mail.house.gov.